

CITY COUNCIL AGENDA

AUGUST 3, 2010

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
ROSE HERRERA
JUDY CHIRCO, VICE MAYOR
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#) [See RDA Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 7)**

Pastor Gerald Sakamoto, San José Buddhist Church Betsuin

- **Pledge of Allegiance**

- **Orders of the Day**

* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

* **ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY BOARD SESSION.**

ADJOURNMENT: This meeting will be adjourned in memory of Herbert “Herb” Wadley, the former Superintendent of Berryessa Union School District. He passed away on June 11, 2010 after a long struggle with cancer. (Chu)

**THE SAN JOSÉ FINANCING AUTHORITY WILL MEET IN A JOINT SESSION
FOLLOWING THE AFTERNOON COUNCIL SESSION**

* **ITEM 9.1 TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.1**

- Orders of the Day (Cont'd.)

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1** Presentation of commendations to Tiffany Chu and Megan Marshall for their help in naming this year's City Hall peregrine falcons. (Mayor)
(Rules in Lieu referral 7/21/10)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

- 2.1 Approval of Minutes.**

- 2.2 Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) [ORD. NO. 28759](#) – Adopting salaries and other compensation for the Mayor and Councilmembers for Fiscal Year 2010-2011.
- (b) [ORD. NO. 28760](#) – Amending Section 9.10.2470 of Chapter 9.10 of Title 9 of the San José Municipal Code to allow the Construction Demolition Debris Program Diversion Deposits that are no longer eligible for refund to be transferred to the General Fund.
- (c) [ORD. NO. 28761](#) – Repealing Part 33 of Chapter 4.80 of Title 4 of the San José Municipal Code, the Anti-Tobacco Master Settlement Agreement Revenue Fund.
- (d) [ORD. NO. 28762](#) – Deferring the payment of the Public Art Allocation required under San José Municipal Code Chapter 22.08 for Public Art Projects at the Norman Y. Mineta San José International Airport.
- (e) [ORD. NO. 28763](#) – Amending Sections 11.40.200 and 11.40.280 of Chapter 11.40 of Title 11 of the San José Municipal Code to modify the boundaries of the Downtown Business and the Arena/Diridon Area Parking Meter Districts.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- (f) ORD. NO. 28766 – Approving an Amended and Restated Development Agreement with Cisco Technologies, Inc. relative to the development of real properties located in North San José, to preserve the ability to construct up to 2.5 million square feet of industrial park development under the provisions of the North San José Area Development Policy, and authorizing the City Clerk to execute the Amended Development Agreement.
- (g) ORD. NO. 28773 – Amending Parts 1 and 5.5 of Chapter 3.36 of Title 3 of the San José Municipal Code relating to the Police and Fire Department Retirement Plan to add new Sections 3.36.130 and 3.36.140 defining “Limitation Year” and “Plan Year” and revising Section 3.36.730 to clarify provisions related to Internal Revenue Code limitations on Pension Benefit Calculations.

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RECOMMEND DEFERRAL TO 8/10/10 PER CITY ATTORNEY

- (h) ORD. NO. 28774 – Providing for an alternative allocation of costs of providing medical insurance coverage for Calendar Year 2010.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of May 26, 2010.](#) (Mayor)
 - (b) [Rules and Open Government Committee Report of May 19, 2010.](#) (Mayor)
- [Deferred from 6/15/10 – Items (a) – (b) and 6/22/10 – Items (e) – (f)]
- (c) [Rules and Open Government Committee Report of June 2, 2010.](#) (Mayor)
 - (d) Transportation and Environment Committee Report of June 7, 2010. (Liccardo)

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RECOMMEND DEFERRAL TO 8/10/10 PER CITY CLERK

- (e) Rules and Open Government Committee Report of June 9, 2010. (Mayor)
- (f) Neighborhood Services and Education Committee Report of June 10, 2010. (Campos)

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RECOMMEND DEFERRAL TO 8/10/10 PER CITY CLERK

[Deferred from 6/22/10 – Items (a) – (d)]

- (g) [Rules and Open Government Committee Report of June 16, 2010.](#) (Mayor)
- (h) [Rules and Open Government Committee Report of June 23, 2010.](#) (Mayor)
- (i) [Revised Transportation and Environment Committee Report of May 3, 2010.](#) (Liccardo)
- (j) Community and Economic Development Committee Report of June 28, 2010. (Pyle)

RECOMMEND DEFERRAL TO 8/10/10 PER CITY CLERK

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2. CONSENT CALENDAR

2.6 Certification of Election Results – June 8, 2010.

Supplemental – Memo from the Office of the City Manager

Recommendation: Adopt a [resolution](#) declaring the results of the June 8, 2010 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)

2.7 Award of Open Purchase Orders for Supplies, Materials, Equipment and Services.

Recommendation: Approve the award of open purchase orders for supplies, materials, equipment and services for FY 2010-2011 #2 and authorize the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

2.8 Outside Employment Approval Process.

Recommendation: Adopt a [resolution](#) delegating to the Mayor the authority to approve, after consultation with the City Attorney, requests by the Independent Police Auditor (IPA) to engage in outside employment providing mediation services. (Independent Police Auditor)

2.9 Fiscal Actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2010-2011:
 - (1) Increase the estimate for Beginning Fund Balance by \$26,254; and
 - (2) Establish an appropriation to the Department of Parks, Recreation, and Neighborhood Services Department for the Barberry Lane Trail Improvement project (PSM 607) in the amount of \$26,254.
- (b) Adopt a [resolution](#) making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Barberry Lane Trail Improvement project as more specifically described in the memorandum from the Redevelopment Agency, dated June 10, 2010.

CEQA: Barberry Lane Trail Improvement Project: Exempt, File No. PP10-131. Council District 8. SNI: West Evergreen. (Parks, Recreation and Neighborhood Services/City Manager's Office)

2.10 Public Entertainment Fees.

Recommendation: Adopt a [resolution](#) amending the Schedule of Fees and Charges (Resolution No. 72737, as amended) to correctly set forth the Public Entertainment Ownership/Management License Fee as \$1,145 per two years. CEQA: Not a Project, File No. PP10-067 (a) Adjustment to Fees, Rates & Fares. (Police/City Manager's Office)

2. CONSENT CALENDAR

2.11 [SB 1084 \(Liu\) – Task Force on Economic Security.](#)

Recommendation: As recommended by the Rules and Open Government Committee on June 23, 2010, adopt a position of support for SB 1084 (Liu) – Task Force on Economic Security. (Housing)

[Rules Committee referral 6/23/10 – Item D(1)(a)]

2.12 [Actions Related to Councilmember Nguyen’s Travel to Washington, D.C.](#)

Recommendation:

- (a) Designate Councilmember Nguyen as the City’s representative to the Silicon Valley Leaderships Group’s “CEO/Senior Officer Advocacy Trip”; and
- (b) Approve travel by Councilmember Nguyen to Washington, D.C. on September 28-29, 2010 to represent the City on the Silicon Valley Leadership Group’s “CEO/Senior Officer Advocacy Trip”. Source of Funds: Council District 7 Office funds.
- (c) Request for an excused absence for Councilmember Nguyen from the Regular Meeting of the City Council on September 28, 2010 due to Authorized City Business: City’s representative to the Silicon Valley Leadership Group’s “CEO/Senior Officer Advocacy Trip”.

(Nguyen)

(Rules in Lieu referral 7/21/10)

2.13 [Continuation Agreement with Westcoast Online dba Netfile.](#)

Recommendation: Adopt a resolution authorizing the City Clerk to negotiate and execute a continuation agreement with Westcoast Online dba Netfile to provide online posting of campaign disclosure forms, statements of economic interest, and lobbyist registration forms. (City Clerk)

* (Rules Committee referral 7/28/10)

2.14 [District 2 Indian Flag Raising and Cultural Show.](#)

Recommendation: As recommended by the Rules and Open Government Committee on July 28, 2010:

- (a) Approve the District 2 Indian Flag Raising and Cultural Show as a City Sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(Kalra)

* [Rules Committee referral 7/28/10 – Item H(6)]

2. CONSENT CALENDAR

2.15 [District 2 Start! Walking Day.](#)

Recommendation: As recommended by the Rules and Open Government Committee on July 28, 2010:

- (a) Approve the District 2 Start! Walking Day as a City Council sponsored special event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

(Kalra)

* [Rules Committee referral 7/28/10 – Item H(7)]

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

* *ITEM 9.1 TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.1*

3.2 [Ordinances to Implement Retirement Boards Governance Changes.](#)

Recommendation: Approve ordinances:

- (a) Amending Section 2.08.130 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise provisions for removal of Retirement Board Members. [Ordinance](#)
- (b) Amending Part 12 of Chapter 2.08 of Title 2 and Section 3.36.330 of Part 3 Of Chapter 3.36 of the San José Municipal Code to revise the structure of the Board Of Administration for the Police And Fire Department Retirement Plan, adopt minimum qualification criteria for public members of said Board, revise provisions for compensation of Board Members and revise the definition of a Board quorum. [Ordinance](#)
- (c) Amending Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code to revise the structure of the Board of Administration for the Federated City Employees Retirement System, adopt minimum qualification criteria for public members of said Board and revise provisions for compensation of Board Members. [Ordinance](#)

CEQA: Not a Project; File No. PP10-068. (City Attorney's Office)
(Deferred from 6/22/10 – Item 3.6)

* **RECOMMEND DEFERRAL TO 8/10/10 PER CITY ATTORNEY**

3.3 Community Polling Results and Potential Ballot Measures. [Presentation](#)

* **Recommendation:**

- (a) [Review results of polling for two potential measures under consideration for the November 2 ballot: Presentation](#)
 - (1) Quarter-Percent Tax on Retail Transactions; and
 - (2) Marijuana Business Tax Measure.[Supplemental – Memo from the Office of the City Manager](#)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Community Polling Results and Potential Ballot Measures. (Cont'd.)

Recommendation:

- (b) (1) [Council discussion and consideration of a one-quarter percent Retail Transactions and Use Tax measure for the November 2, 2010 Election](#); and,
- (2) If the Council wishes to proceed, adoption of a [resolution](#) of the City Council calling and giving notice, on its own motion, a Special Municipal Election to be held on November 2, 2010, to submit to the electors of the City of San José the following measure: [Presentation](#)

MEASURE ____

Measure to enact a one-quarter percent tax on retail transactions in San José

In order to provide funding for essential City services such as police, fire, emergency response, street maintenance, pothole repair, parks, libraries, and youth and senior programs, shall an ordinance be adopted to enact a one-quarter percent tax on retail transactions in San José, subject to existing independent financial audits, with all revenue controlled by the City.	YES	
	NO	

- (3) Council discussion and consideration of adopting of provisions to permit rebuttal arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9285.
- (4) Council discussion and consideration of adopting provisions to permit any member or members of the City Council to submit arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9282.

CEQA: Not A Project under CEQA, per Section 15378(b)(4) of the CEQA Guidelines.

- (c) (1) [Council discussion and consideration of a proposed Marijuana Business Tax measure for the November 2, 2010 Election](#); [Presentation](#)
- (2) If the Council wishes to proceed, adoption of a [resolution](#) of the City Council calling and giving notice of, on its own motion, a Special Municipal Election to be held on November 2, 2010, to submit to the electors of the City of San Jose the following measure:

MEASURE ____

Marijuana Business Tax

In order to provide funding for essential City services such as police, fire, emergency response, street maintenance, pothole repair, parks, libraries, and youth and senior programs, shall an ordinance be adopted to impose a tax at the rate of 10% of gross receipts on marijuana businesses in San José, subject to existing independent financial audits, with all revenue controlled by the City?	YES	
	NO	

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Community Polling Results and Potential Ballot Measures. (Cont'd.)

Recommendation:

- (c) (3) Council discussion and consideration of adopting of provisions to permit rebuttal arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9285.
- (4) Council discussion and consideration of adopting provisions to permit any member or members of the City Council to submit arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9282.

[Supplemental – Memo from the Office of the City Manager](#)

CEQA: Not A Project under CEQA, per Section 15378(b)(4) of the CEQA Guidelines.

- (d) (1) [Council discussion and consideration of a proposed Charter amendment to](#) Charter Section 1111 regarding limitations on binding arbitration for the November 2 Election;
- (2) If the Council wishes to proceed, adoption of a [\(revised\) resolution](#) of the City Council calling and giving notice of, on its own motion, a Special Municipal Election to be held on November 2, 2010, to submit to the electors of the City of San Jose the following measure:

MEASURE__

Limit Powers of Outside Arbitrators

To provide fiscal stability, control costs and maintain City services to residents, shall the Charter be amended to permit binding arbitration only if outside arbitrators are (1) required to base awards to employees primarily on the City's ability to pay; and (2) prohibited from: creating any unfunded liability for the City, increasing police and firefighter compensation more than the rate of increase in General Fund revenues or granting retroactive benefits?	YES	
	NO	

- (3) Council discussion and consideration of adopting of provisions to permit rebuttal arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9285.
- (4) Council discussion and consideration of adopting provisions to permit any member or members of the City Council to submit arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9282.

[Attachment – Memo from the Mayor](#)

[Attachment – Memo from Councilmembers Pyle and Kalra](#)

[Attachment – Memo from the City Attorney](#)

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[Rules Committee referral 7/28/10 – Item H(1)]

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Community Polling Results and Potential Ballot Measures. (Cont'd.)

Recommendation:

- (e) (1) [Council discussion and consideration of a proposed Charter amendment to Article XV](#) regarding alternative retirement plans, minimum benefits and contributions/cost sharing for pensions for the November 2 Election.
- (2) If the Council wishes to proceed, adoption of a [resolution](#) of the City Council calling and giving notice of, on its own motion, a Special Municipal Election to be held on November 2, 2010, to submit to the electors of the City of San Jose the following measure:

MEASURE__

Pension Reform

Shall the Charter be amended to allow the Council, by ordinance and subject to the requirements of applicable law, to exclude any officer or employee hired on or after the ordinance's effective date from any retirement plan or benefit of any plan?	YES	
	NO	

- (3) Council discussion and consideration of adopting of provisions to permit rebuttal arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9285.
- (4) Council discussion and consideration of adopting provisions to permit any member or members of the City Council to submit arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9282.

[Attachment – Memo from Councilmembers Pyle and Kalra](#)

[Attachment – Memo from the City Attorney](#)

[Attachment – Memo from the City Attorney](#)

[Attachment - Memo from Councilmember Oliverio](#)

* [Rules Committee referral 7/28/10 – Items H(1) and H(2)]
(City Manager's Office/Finance/City Attorney's Office)

* **TO BE HEARD LAST IN THE AFTERNOON NO EARLIER THAN 2:30 P.M.**

3.4 [Approve the Terms of an Agreement with the San José Police Officers' Association.](#)

Recommendation:

- (a) Adopt a [resolution](#) approving the terms of an agreement for the period of July 1, 2010 through June 30, 2011, between the City and the San José Police Officers' Association.
- (b) Restoration of 70 Police Officer positions as follows:
- (1) Restore 62 Police Officer positions, on a one-time basis, effective August 1, 2010 through June 30, 2011.
- (2) Restore 8 Police Officer positions ongoing, effective August 1, 2010.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Approve the Terms of an Agreement with the San José Police Officers' Association. (Cont'd.)

Recommendation:

- (c) Adopt the following 2010-2011 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (1) Decrease the Police Department Personal Services appropriation by \$883,954.
 - (2) Increase the Police Department Non-Personal/Equipment appropriation by \$331,504.
 - (3) Decrease the Office of the City Attorney Personal Services appropriation by \$20,932.
 - (4) Establish a 2011-2012 Future Deficit Earmarked Reserve of \$1,230,000.
 - (5) Decrease the Unemployment Insurance Earmarked Reserve by \$985,000.
 - (6) Decrease the revenue estimate for Transfers and Reimbursements by \$301,094.
 - (7) Decrease the revenue estimate for Licenses and Permits by \$27,288.
- (d) Adopt the following 2010-2011 Appropriation Ordinance amendments in the Airport Maintenance and Operations Fund (Fund 523):
 - (1) Decrease the Transfer to the General Fund by \$301,094.
 - (2) Increase the Ending Fund Balance by \$301,094.
- (e) Adopt a [resolution](#) amending the Schedule of Fees and Charges (Resolution No. 72737, as amended) to decrease the Cardroom Card Table Fee from the adopted \$24,755 per table to an adjusted fee of \$24,413 per table.

CEQA: Not a Project, File No. PP10-066 (g) Agreements/Contracts. (City Manager's Office)

3.5 [Public Hearing on Sewer Service and Use Charges and Storm Sewer Service.](#)

Recommendation: Conduct a public hearing on the Sewer Service and Use Charges and Storm Sewer Service Charges report filed by the Director of Finance with the City Clerk's Office and adopt a [resolution](#) to approve the placement of recommended charges on the 2010-2011 Santa Clara County assessment roll, with such modifications as the City Council may make based on public hearing testimony. CEQA: Not a Project, File No. PP10-069(a) City Organizational & Administrative Activities. (Finance)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [2009 Development Services Customer Satisfaction Survey Results.](#)

Recommendation: As recommended by the Community and Economic Development Committee on June 28, 2010, accept staff's report on the results of the 2009 Development Services Customer Satisfaction Survey. (Planning, Building and Code Enforcement) [Community and Economic Development Committee referral 6/28/10 – Item D(2)]
RECOMMEND DEFERRAL TO 8/10/10

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Santa Clara Valley Habitat Conservation Plan – Status Report.](#)

Recommendation: As recommended by the Community and Economic Development Committee on June 28, 2010, accept the status report and the following staff recommendations regarding consideration of the draft Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (Plan or HCP/NCCP):

- (a) Continue to work with Wildlife Agencies to ensure feasible and reasonable requirements are identified in the HCP/NCCP, including but not limited to financial obligations;
- (b) Continue to ensure that the costs incurred to meet the Plan requirements as adopted by the partner agencies are less than or equal to the benefits of the Plan;
- (c) Continue to ensure that the Draft Plan does not put the City's General Fund at risk for being responsible to fund Plan implementation in the absence of development fees or other assumed revenue sources; and
- (d) Continue to be diligent in the review and comment of non-local partner agencies' CEQA documents with regard to direct and indirect impacts on the Plan area from projects outside the Plan area, and encourage the Wildlife Agencies to do the same.

(Planning, Building and Code Enforcement)

[Community and Economic Development Committee referral 6/28/10 – Item D(3)]

RECOMMEND DEFERRAL TO 8/10/10

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Actions Related to Grants by the Metropolitan Transportation Commission for the 2010 Transportation for Livable Communities Program.](#) [Presentation](#)

Recommendation: Approval of the following action to receive funding grants by the Metropolitan Transportation Commission (MTC) for the 2010 Transportation for Livable Communities (TLC) program in the amount of \$8,162,000 for three transportation improvement projects on San Fernando Street, The Alameda, and San Carlos Street.

- (a) Adopt a [resolution](#) authorizing the City Manager to negotiate and execute all documents necessary to effectuate the grants, including but not limited to submission of the grant applications for the three (3) projects to MTC for the 2010 TLC grant program, in the total amount of \$8,162,000, with \$6,529,800 of that amount reimbursable to the City as the three projects progress, and including a non-reimbursable local match of \$1,632,200.

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to Grants by the Metropolitan Transportation Commission for the 2010 Transportation for Livable Communities Program. (Cont'd.)

Recommendation:

- (b) Adopt a [resolution](#) authorizing the loan of \$1,351,000 from developer impact fees collected for the US101/Blossom Hill Interchange project to partially fund the local match of \$1,632,200 for two (2) projects to the MTC for the 2010 TLC grant projects and, among other conditions, to repay the US 101/Blossom Hill Interchange Reserve in full by 2012-2013 including interest payment at the City's pooled investment rate and to reserve as collateral for repayment of the US101/Blossom Hill Interchange funds in the Route 101/Tully Interchange which is a future City proposal to the VTA in the amount of \$6.0 million towards construction of the interchange.
- (c) Adopt the following Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
 - (1) Establish an appropriation to the Department of Transportation for The Alameda – A Plan for the Beautiful Way project in the amount of \$845,000;
 - (2) Establish an appropriation to the Department of Transportation for the San Carlos Multimodal Streetscape Improvements – Phase II project in the amount of \$506,000; and
 - (3) Decrease the Reserve – Route 101/Blossom Hill Interchange Improvements project by \$1,351,000.
- (d) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
 - (1) Establish an appropriation to the Department of Transportation for the San Fernando Street Enhanced Bikeway and Pedestrian Access project in the amount of \$281,200; and
 - (2) Decrease the Bicycle and Pedestrian Facilities project by \$281,200.

CEQA: San Fernando Street Enhanced Bikeway and Pedestrian Access – Statement of Exemption, File No. PP10-124; The Alameda “A Plan for the Beautiful Way” – Statement of Exemption, File No. PP10-132; and San Carlos Multimodal Streetscape Improvements – Re-use of the Downtown Strategy SEIR, Resolution No. 68839, File No. PP03-254. Council Districts 3 and 6. (Transportation/City Manager's Office)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Public Hearing on Grant of Franchise to Wickland Pipelines.](#)

Recommendation: Conduct a public hearing and approve an [ordinance](#) granting a franchise to Wickland Pipelines, LLC for the purpose of transmitting and distributing jet fuel in the City's public right-of-way. CEQA: Mitigated Negative Declaration, File No. CP09-012. Council District 4. (Public Works)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

9.1 [Actions Related to Major League Baseball.](#)

Recommendation: As recommended by the Rules and Open Government Committee on July 28, 2010 and outlined in the attached memo previously submitted to the Committee, it is recommended that the City Council and Redevelopment Agency adopt resolutions:

- (a) Supporting the efforts of the Oakland Athletics Baseball team to move to San Jose; and,
 - (b) Amending the negotiating principles established by the City Council on May 12, 2009 as outlined in the attached memo dated July 23, 2010 submitted by Mayor Reed and Councilmembers Liccardo, Herrera, and Pyle
- (Mayor/Redevelopment Agency)

* [Rules Committee referral 7/28/10 – Item H(1)]

TO BE HEARD IMMEDIATELY FOLLOWING ITEM 3.1

- Notice of City Engineer's Pending Decision on Final Maps

* In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10054	4203 San Felipe Road	8	Hawkstone San Felipe LLC	15 Lots / 9 Units	8 SFDR & 1 Non-Residential
10057	W/S Cadwallader Ave 500' s/o Prunetree Lane	8	ACS Properties, LLC	38 Lots / 38 Units	SFDR

- Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.

- Continue RDA Board Meeting

- Adjournment

This meeting will be adjourned in memory of Herbert "Herb" Wadley, the former Superintendent of Berryessa Union School District. He passed away on June 11, 2010 after a long struggle with cancer. (Chu)

**JOINT CITY OF SAN JOSÉ CITY COUNCIL/
FINANCING AUTHORITY/AGENDA**

1:30 P.M.

TUESDAY, AUGUST 3, 2010

CHAMBERS

1. Call to Order and Roll Call

2. [Actions Related to the Issuance of Qualified Energy Conservation Bonds.](#)

Recommendation:

- (a) Adopt a [resolution](#) of the City of San José City Council approving the financing structure for, and the potential projects to be financed by, the City of San José Financing Authority's issuance of Qualified Energy Conservation Bonds, in an aggregate principal amount not to exceed \$9,750,904.66, in connection with the financing of certain energy efficiency and renewable energy capital improvements of the City of San José, and declaring the City's intention to reimburse qualified project costs from bond proceeds.
 - (b) Adopt a [resolution](#) of the City of San José Financing Authority Board approving the financing structure for the issuance of Qualified Energy Conservation Bonds, in an aggregate principal amount not to exceed \$9,750,904.66, in connection with the financing of certain energy efficiency and renewable energy capital improvements of the City of San José. (Finance/Environmental Services)
- CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism.

3. Open Forum

4. Adjourn the San José Financing Authority.

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.